UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

'08 MJ 1483

2008 MAY 13 AM 9:51

UNITED STATES OF AMERICA, Plaintiff, v. **Carlos LOPEZ-Viera** Defendant.	Magistrate Case No. **COMPLAINT FOR VIOLATION OF:** Title 8, U.S.C. § 1324(a)(2)(B)(iii) - Bringing in Aliens Without Presentation; Title 18, U.S.C. § 1544 Misuse of Passport

The undersigned complainant, being duly sworn, states:

Count I

That on or about **May 12, 2008** within the Southern District of California, defendant **Carlos LOPEZ-Viera**, with the intent to violate the immigration laws of the United States, knowing and in reckless disregard of the fact that aliens, namely **Jose GONZALEZ-Alvarez, Ana Bertha BALTAZAR-Alonzo and Maria Guadalupe MORALES-Arellano** had not received prior official authorization to come to, enter and reside in the United States, did attempt to bring to the United States said aliens, and upon arrival did not bring and present said aliens immediately to an appropriate immigration officer at a designated port of entry; in violation of Title 8, United States Code, Section 1324(a)(2)(B)(iii).

Count II

That on or about **May 12, 2008**, within the Southern District of California, defendant **Carlos LOPEZ-Viera** did knowingly and willfully use a passport issued or designed for the use of another, with the intent to gain admission into the United States in the following manner, to wit: Defendant applied for entry to the United States by presenting U.S. passport number 406123405, issued to Christian Kraus to a Department of Homeland Security, Customs and Border Protection Officer, knowing full well that he was not Christian Kraus, that the passport was not issued or designed for his use, and that he is not a United States citizen entitled to a U.S. Passport; in violation of Title 18, United States Code, Section 1544.

Count III

That on or about **May 5, 2008**, within the Southern District of California, defendant **Carlos LOPEZ-Viera** did knowingly and willfully use a passport issued or designed for the use of another, with the intent to gain admission into the United States in the following manner, to wit: Defendant applied for entry to the United States by presenting a U.S. passport number 215823347, issued to Richard William Helstad to a Department of Homeland Security, Customs and Border Protection Officer, knowing full well that he was not Richard William Helstad, that the passport was not issued or designed for his use, and that he is not a United States citizen entitled to a U.S. Passport; in violation of Title 18, United States Code, Section 1544.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
Sara Esparagoza, United States Customs
and Border Protection Enforcement Officer

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 13th DAY OF **May 2008.**

UNITED STATES MAGISTRATE JUDGE
CATHY ANN BENCIVENGO

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PROBABLE CAUSE STATEMENT

The complainant states that **Jose GONZALEZ-Alvarez, Ana Bertha BALTAZAR-Alonzo and Maria Guadalupe MORALES-Arellano**, are citizens of a country other than the United States; that said aliens have admitted they are deportable; that their testimony is material; that it is impracticable to secure their attendance at trial by subpoena; and that they are material witnesses in relation to these criminal charges and should be held or admitted to bail pursuant to Title 18, United States Code, Section 3144.

On **May 12, 2008** at approximately 2:45 PM, **Carlos LOPEZ-Viera (Defendant)** made application for admission into the United States driving a white Dodge Ram pickup at the San Ysidro Port of Entry. Defendant presented a photo altered United States passport bearing the name Christian Kraus and gave a negative declaration to a Customs and Border Protection (CBP) Officer. The CBP Officer received a computer generated referral and referred Defendant and the vehicle to secondary for further inspection.

In secondary, a CBP Officer noticed Defendant walking alone in the secondary lot. The Officer questioned Defendant who told the officer he was illegal and that he was going back to Mexico. Defendant was subsequently escorted to the Security Office. A search of the vehicle revealed six individuals concealed in the rear cab area. Three of the individuals were retained as Material Witnesses and are now identified as: **Jose Gonzalez-Alvarez (MW1), Ana Bertha Baltazar-Alonzo (MW2), and Maria Guadalupe Morales-Arellano (MW3).** All three Material Witnesses were determined to be citizens of Mexico without entitlements to enter, pass-through, or reside in the United States.

During a videotaped proceeding, Defendant was advised of his Miranda Rights. Defendant acknowledged his rights and elected to answer questions without an attorney present. Defendant admitted that he was smuggling six aliens in the back of the vehicle he was driving. Defendant admitted he was to receive a waiver of the $4200.00 USD smuggling fee in exchange for driving the vehicle with the concealed aliens. Defendant stated that he was to drive northbound on the Interstate 5 freeway and would be contacted by smugglers. Defendant stated an individual he identified as "Jose" provided him with the passport and a fraudulent California Driver's License to help him gain entry into the United States. Defendant admitted he is a citizen of Mexico by virtue of birth in Torreon, Coahuila, Mexico and does not have legal documents to enter the United States. Defendant admitted his true name is Carlos LOPEZ-Viera with birth date of October 16, 1973.

Records indicate that on or about May 5, 2008, Defendant was apprehended at the San Ysidro Port of Entry attempting to enter the United States with a photo-altered passport bearing the name Richard William HELSTAD. Defendant was questioned as to this prior apprehension and admitted he had made the same arrangements as specified above.

Separate video-taped interviews were conducted with Material Witnesses. All Material Witnesses stated they are citizens of Mexico without legal documents to enter or reside in the United States. MW1 stated he made the arrangements with an unknown male and was to pay $2500.00 USD to be smuggled into the United States. MW2 stated her husband made arrangements with an unknown male and was to pay $3500.00 USD for her to be smuggled into the United States. MW3 stated his uncle made arrangements with an unknown male and was to pay $2500.00 USD to be smuggled into the United States. MW1, MW2 and MW3 stated they intended to travel to California to seek employment.